

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:)
)
NORTH SHORE GAS COMPANY,)
) No. 11-0280
) 11-0281
) (Consl.)
Proposed general increase in)
natural gas rates. (Tariffs)
filed February 15, 2001,))
)
THE PEOPLES GAS LIGHT and COKE)
COMPANY,)
)
Proposed general increase in)
natural gas rates. (Tariffs)
filed February 15, 2011.))

Chicago, Illinois
August 30, 2011

Met pursuant to notice at 10:00 a.m.

BEFORE :

MR. TERRANCE HILLIARD and MR. ETHAN KIMBREL,
Administrative Law Judge.

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1	<u>I N D E X</u>					
2	<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-direct</u>	<u>Re-cross</u>	<u>By Examiner</u>
3	David J. Effron					
4		183	187	206		
5	Teresa Ebrey					
6		207	212			
7			239	243	245	
8					246	
9	Daniel G. Kahl					
10		248	253			
11			263			
12	Michael Ostrander					
13		280	283			
14			298			
15	David Brightwell					
16		302	305			316
17					319	
18			320			336
19	Kevin R. Kuse					
20		338	342			
21						
22	In camera pages 256 and 257					

1	<u>E X H I B I T S</u>		
2	<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
3	AG		
	#1,2,3		184
4	#10	240	243
	#11&12		263
5	#13		301
6	GCI		
	#2.0,2.1,2.2,7.0,7.1		187
7	7.2		187
8	STAFF		
	#3.0&12.0		211
9	#1.0&10.0		253
	#11.0&20.0		283
10	#6.0&15.0		305
11	PGL/NS		
	#4.0,32&48		341
12			
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1 JUDGE HILLIARD: On behalf of the Illinois
2 Commerce Commission, I call Docket 11-2080 and 0281
3 North Shore Gas and Peoples Gas Light and Coke
4 Company.

5 We have scheduled Mr. Effron as the
6 first witness. Is there anything we need to talk
7 about before we begin examinations?

8 MR. FEELEY: I have a preliminary matter just
9 about the schedule tomorrow, subject to yours and
10 other parties okay with it, Staff was wondering if
11 tomorrow we could start at 9:30 instead of 10:00 and
12 then break for lunch at 11:30, that might work best
13 for our witness traveling up from Springfield, but if
14 that doesn't work out, that's fine.

15 JUDGE HILLIARD: You want 9:00?

16 MS. LUSSON: We prefer 9:30, your Honor.

17 JUDGE KIMBREL: What time do you think we will
18 get out of here tomorrow evening?

19 MS. LUSSON: I'm not crossing anyone tomorrow,
20 so I can't say.

21 JUDGE HILLIARD: Well, 9:30 will work.

22 MS. LUSSON: Thank you.

1 MR. FEELEY: Thank you.

2 MS. LUSSON: Mr. Dismukes is traveling from out
3 of town. I just want to make sure he has time to get
4 settled in.

5 MR. RATNASWAMY: Your Honors, another
6 scheduling related item, Mr. Thomas is testifying on
7 Tuesday, but we don't --

8 MS. MUNSCH: Your Honor, did we say
9 1:00 o'clock, you had a status in the morning, I
10 think, so we were going to start in the afternoon on
11 Tuesday.

12 JUDGE KIMBREL: I think I have something at
13 11:00.

14 MR. RATNASWAMY: That it was at 1:00 p.m.

15 JUDGE HILLIARD: We will put in the hearing
16 report, we will start at 1:00 on Tuesday.

17 MR. RATNASWAMY: An additional matter, your
18 Honors. Yesterday Ms. Lusson moved for her admission
19 of AG Cross Exhibits 1, 2 and 3, you know,
20 recognizing that there are excerpts from 285 filings
21 and one relates to Rider VBA, I think that was all
22 recognized yesterday, we don't have any objection.

1 JUDGE HILLIARD: All right then, AG Cross
2 Exhibits 1, 2 and 3 will be admitted into the record.
3 MS. LUSSON: Thank you.
4 (Whereupon, AG Exhibit Nos. 1, 2
5 and 3 were admitted into
6 evidence.
7 (Witness sworn.
8 DAVID J. EFFRON,
9 called as a witness herein, having been first duly
10 sworn, was examined and testified as follows:
11 DIRECT EXAMINATION
12 BY
13 MS. LUSSON:
14 Q Mr. Effron, please state your full name and
15 business address for the record.
16 A David J. Effron, 12 Pond Path, North
17 Hamilton, New Hampshire.
18 Q You have before you several exhibits, the
19 first being exhibits that have been marked as your
20 direct testimony of David J. Effron on behalf of the
21 People of the State of Illinois, the Citizens Utility
22 Board and the City of Chicago marked as GCI Exhibit

1 2.0, both confidential and redacted, as well as GCI
2 Exhibits 2.1 and 2.2, which are attachments to that
3 testimony reflecting schedules that are described in
4 your testimony.

5 Were those exhibits prepared by you or
6 under your direct examination?

7 A Yes, they were.

8 Q And --

9 JUDGE HILLIARD: Excuse me, is that microphone
10 on?

11 MS. LUSSON: It is on.

12 JUDGE HILLIARD: Please make an effort to speak
13 into the microphone.

14 BY MS. LUSSON:

15 Q Do you have any corrections to make to
16 those exhibits at this time?

17 A No, I do not.

18 Q If I asked you the same questions today
19 that appear therein, would your answers be the same?

20 A Yes, they would.

21 Q Mr. Effron, you also have in front of you
22 GCI Exhibit 7.0, which is the rebuttal testimony of

1 the People of the State of Illinois, the Citizens
2 Utility Board and the City of Chicago.

3 You also have both confidential and
4 redacted versions, as well as GCI Exhibit 7.1 and 7.2
5 which are the schedules that reflect your adjustments
6 to North Shore and Peoples Gas revenue requirements.

7 Were those exhibits prepared by you or
8 under your supervision?

9 A Yes, they were.

10 Q Do you have any corrections to make at this
11 time?

12 A No, I do not.

13 Q If I asked you the same questions today
14 that appear therein, would your answers be the same?

15 A Yes, they would.

16 MS. LUSSON: Your Honor, I move for the
17 admission of GCI Exhibits 2.0, both confidential and
18 redacted, as well as GCI Exhibits 2.1 and 2.2, as
19 well as GCI Exhibit 7.0, both confidential and
20 redacted, as well as Exhibit 7.1 and 7.2.

21 And I would note for the record, your
22 Honor, the attachments to Mr. Effron's direct

1 testimony some of the pages were inadvertently marked
2 as AG Exhibit as opposed to GCI, so we will make
3 those corrections and file those on E-Docket today.

4 JUDGE HILLIARD: Okay. Any objections?

5 MR. RATNASWAMY: Also I think 12.2 was marked
6 -- I would just say one of them was also correctly
7 not numbered.

8 MS. LUSSON: One said "1.2" as opposed to
9 "2.1." That will be corrected as well today.

10 JUDGE HILLIARD: GCI Exhibits 2.0, 2.1, 2.2,
11 confidential and redacted 7.0, 7.1, 7.2, confidential
12 redacted and corrected on all counts are admitted in
13 the record.

14 (Whereupon, GCI Exhibit Nos.
15 2.0, 2.1, 2.2, 7.0, 7.1 , 7.2
16 were admitted into evidence.)

17 MS. LUSSON: We now tender Mr. Efron for
18 cross-examination.

19 CROSS EXAMINATION

20 BY

21 MR. RATNASWAMY:

22 Q Good morning again, Mr. Efron.

1 A Good morning.

2 Q You may have a certain sense of déjà vu,
3 because I'm going to ask you some of these questions
4 I think I asked you twice before.

5 A The issues tend to be similar from case to
6 case.

7 Q So one of the approximately half dozen
8 issues in which you testify was recovery of
9 compensation costs, right?

10 A That's correct, yes.

11 Q You proposed to disallow or just out,
12 whatever word you want to use, certain incentive
13 compensation costs from the proposed revenue
14 requirements?

15 A Yes, that's correct.

16 Q Then you propose to remove 70 percent of
17 the executive incentive compensation plan; is that
18 right, costs?

19 A If I could have a moment?

20 MS. LUSSEN: Could you refer to a certain page
21 in his direct.

22 MR. RATNASWAMY: Sure.

1 MS. LUSSON: 13, 14.

2 BY MR. RATNASWAMY:

3 Q For example, the direct testimony, Page 16?

4 A Yes, that's correct.

5 Q On the same page, you propose eliminating

6 completely Omnibus incentive compensation plan costs;

7 is that right?

8 A Yes.

9 Q Are you an expert on the management of

10 human resources?

11 A I have never had a position that entailed

12 that, no.

13 Q You've never had any training on that?

14 A Not to the best of my recollection, no.

15 Q Is it correct that your testimony offers no

16 opinion on whether the approaches of the utilities to

17 the subject of total and incentive compensation are

18 prudent from the perspective of managing human

19 resources?

20 A I'm not offering opinion on that.

21 Q Okay. I would like to ask you a somewhat

22 lengthy number of hypothetical questions please.

1 In the first hypothetical, I would
2 like you to make three assumptions please. The first
3 assumption is please assume that a large gas utility
4 hires five employees in the Operations Department at
5 an annual salary of \$50,000 per year; second, please
6 assume that those salaries are consistent with
7 salaries in the relevant labor market for individuals
8 with similar qualifications; and third, please assume
9 that the five employees are doing some form of work
10 that's useful in terms of providing tariff services,
11 leak surveys or something like that, something
12 useful.

13 Just stopping there for a second, are
14 you okay with those three assumptions?

15 Do you have them?

16 A I think so.

17 Q So beginning with that as the hypothetical,
18 just based on the three assumptions that you have
19 heard so far, is there any fact which suggests to you
20 that if the utility were to file a rate case, some of
21 these costs of these employees' base pay that they're
22 salaries should be disallowed?

1 A As I recall, the three conditions, I don't
2 recall having heard anything that would lead me to
3 recommend disallowance based on what you said.

4 Q Okay. I would like to change, I think it's
5 actually the first assumption, that relates to what
6 they're paid and how they're paid.

7 Suppose the utility sets up an
8 Incentive Compensation Program and instead of having
9 base pay of \$50,000 a year it's now \$45,000 per year
10 and that under the program, the Incentive
11 Compensation Program, although it could vary, the
12 expected value of what would be paid out to each of
13 them would be \$5,000 a year.

14 And the other assumptions haven't
15 changed, so the labor market hasn't changed and work
16 their doing hasn't changed.

17 With that hypothetical, if the utility
18 were to file a rate case, would it be your view that
19 some of those costs might be disallowed?

20 A Might be. It would depend on what the
21 nature of incentives were.

22 If the incentives were geared strictly

1 towards things like improving safety, improving
2 quality of customer service, increasing absenteeism,
3 then I would say that none of it would be disallowed.

4 Q Let me ask you a variation of that then. I
5 will come back to it.

6 So suppose the Incentive Compensation
7 Program has no effect on their behavior at all and
8 they simply keep doing the same work year after year
9 instead of having base pay of 50,000, they have total
10 pay of 50,000 which is 45,000 of base pay and \$5,000
11 of incentive compensation.

12 In that scenario, what is your
13 understanding of whether some of that would be
14 disallowed?

15 A I'm having a little trouble actually
16 relating to that hypothetical, because if the
17 incentive compensation had no effect on their
18 behavior, then I don't see what the purpose of
19 Incentive Compensation Program would be to begin
20 with, so I guess it's a little difficult to answer in
21 that circumstance.

22 I guess if it was a hypothetical

1 incentive compensation that actually didn't provide
2 any incentives for modified behavior, in that
3 Incentive Compensation Program, the stated incentives
4 were, even though it was not modifying the behavior,
5 the incentives were still consistent with
6 consumer-related goals, I would tentatively say there
7 wouldn't be any obvious reason for a disallowance,
8 but again, the whole hypothetical is getting a little
9 cloudy now.

10 Q Okay. So let's back up to the first three
11 assumptions, except that first assumption has
12 changed. We are just back to the simpler version,
13 it's 45,000 base pay and it's \$5,000 expected value
14 of incentive compensation.

15 When you refer in your -- let me
16 abstract it from the hypothetical actually.

17 When you refer to which types of
18 incentive types of compensation costs are
19 recoverable, am I right, you're reflecting your
20 understanding of standards that you believe were
21 established by the Illinois Commerce Commission past
22 orders?

1 A Well, it's not just standards that were
2 established by the Illinois Commerce Commission.

3 I think it's consistent with the
4 standards that were established by the Illinois
5 Commerce Commission, as well as Commissions in
6 several other jurisdictions, but it's also something
7 I believe is a matter of principle is appropriate.

8 Q So of the three things you just said, past
9 Illinois orders, other jurisdictions, and a matter of
10 principle, isn't only the first one mentioned in your
11 testimony?

12 MS. LUSSON: Direct or rebuttal?

13 MR. RATNASWAMY: Either.

14 THE WITNESS: No. I believe I did mention the
15 Illinois Commerce Commission. I didn't mention any
16 other Commissions, but I believe I stated why I
17 believe incentive compensation, it's geared toward
18 the increasing return on equity or earnings per
19 share, things like that should not be recoverable for
20 customers, so I think I covered two of the things I
21 mentioned in my prior response.

22 Q Do you have a particular portion of your

1 direct testimony or rebuttal testimony in mind?

2 A If you go to my direct testimony, Page 15.

3 Q The Q and A that starts at Line 322. Is
4 that what you're referring to?

5 A Yes, sir, that's correct.

6 Q Thank you. I would like to run through
7 your understanding of particular metrics and I have
8 an Illinois focus, so I'm asking about your
9 understanding of what the standards are in Illinois.

10 And by "metrics" what I mean is the
11 criteria of the plan that relate to what
12 circumstances and what amounts there are payments.

13 Are you okay with me using that term,
14 "metrics"?

15 A I understand what you mean, yes.

16 Q So are costs associated with customer
17 satisfaction metrics recoverable?

18 A I would say as a general rule, yes.

19 Q Okay. Costs associated with reliability
20 metrics?

21 A Yes.

22 Q Are costs associated with customer safety

1 recoverable?

2 A Yes.

3 Q Are costs associated with worker safety
4 recoverable?

5 A Yes.

6 Q Are costs associated with reductions in
7 operating expenses recoverable?

8 A To the extent the reductions to the
9 expenses are consistent with the provision of safe
10 reliable service, I would say yes.

11 Q And just to be clear, in this case, you
12 have not expressed any concern, have you, that the
13 cost-control related metrics might jeopardize safety
14 or reliability, have you?

15 A I have not, no.

16 Q The next one is a little more general, but
17 costs associated with cost-control metrics, are they
18 recoverable?

19 A Again, I would answer the same as my last
20 answer: Assuming that the cost controls were
21 consistent with the provision of safe reliable
22 service and not just geared towards reducing costs no

1 matter what the consequences, I would say yes.

2 Q Okay. If the particular metric was shown
3 to help attract and retain motivated and qualified
4 employees, but no other direct customer benefit was
5 shown, what is your understanding about whether those
6 costs are recoverable?

7 A That's getting a little hazier now. I
8 guess that would depend in part on what the motivated
9 employees were being motivated to do.

10 Q What is the -- and if there is different
11 definitions in different contexts, I'm not trying to
12 be unfair about this, but in general what is the
13 definition of "net income"?

14 A The revenues less expenses.

15 Q Okay. Can utilities experiencing increase
16 net income benefit customers?

17 A If it's achieved through the reduction of
18 expenses consistent with safe reliable service, I
19 would say yes.

20 Q What is your understanding of the
21 recoverability of costs associated with net income
22 metrics in Illinois?

1 A As a general rule, if it's stated just as
2 net income, earnings per share or return on equity,
3 then it would not be recoverable.

4 Q Okay. You mentioned two other things, I
5 think earnings per share and return of equity. I was
6 just asking about net income for now.

7 A Again, if it were net income, then it's my
8 understanding in Illinois, it would generally not be
9 recoverable.

10 Q So suppose there was evidence that the
11 historical experience of a particular utility was
12 that the employees, when there was a net income
13 metric, responded by reducing or controlling costs,
14 but they didn't do anything to increase revenues.

15 If that was the evidence of, in fact,
16 how they responded to the metric, would that change
17 your view on whether the associated costs were
18 recoverable?

19 A It's hard to respond to that without seeing
20 what the actual evidence was that that's what
21 transpired. It might.

22 Q If the incentive compensation

1 plan -- hypothetical the incentive compensation has
2 net income, which I believe you said has a revenue
3 side and an expense side. Is that the term you used?

4 A That income would typically be defined as
5 revenues less expenses.

6 Q Okay. So suppose the utility decided to
7 break that into two different metrics, one was for
8 increased revenues and one was for decreased expenses
9 if they broke net income into two pieces like that,
10 would the costs associated with the expense part of
11 it be recoverable?

12 A Yes, I believe in general.

13 As I said before, the reductions of
14 costs consistent with the provision of safe reliable
15 service would be recoverable.

16 Q This is a similar question, but now I'm
17 switching to a return on equity, which I think you
18 referred to.

19 Can utilities experiencing an
20 increased return on equity benefit customers?

21 A Well, I think the primary beneficiaries of
22 that would be the investor, the shareholders.

1 I suppose there could be a way where
2 it could indirectly be beneficial to investors;
3 again, depending on what the reason was for the
4 increase in return on equity.

5 Q Okay. I think just now you said
6 "investors" when you meant "customers"?

7 A I meant "customers," yeah, it could be
8 beneficial to customers; again, depending on what the
9 reason was for the increase on the return on equity.

10 Q Do you have copies of your Data Request
11 Responses?

12 A I do not.

13 MS. LUSSON: Which one?

14 MR. RATNASWAMY: 3.09.

15 THE WITNESS: Yes, I have them now.

16 BY MR. RATNASWAMY:

17 Q Have you had a chance to review the
18 response to the Utilities' Data Request GCI 3.09?

19 A Yes, I have.

20 Q Is it correct that you were asked: Is it
21 your testimony that no matter how it is achieved, the
22 utility is experiencing an increased return on equity

1 never benefits customers?

2 A That's the question, yes.

3 Q There is a response there, would you read

4 the response please.

5 A Sure. It's pretty much what I just said in

6 response to your prior questions.

7 The answer is:

8 "No, for example, if an increased

9 return on equity is achieved by reducing

10 expenses without compromising service

11 quality, such reductions can benefit

12 customers if the expense reductions

13 are ultimately reflected in rates."

14 Q And you still agree with that answer today?

15 A Yes.

16 Q Okay. With respect to the Executive

17 Incentive Compensation Plan in particular, is it

18 correct that you seek to disallow all of the costs

19 associated with the earnings per share metric?

20 A Yes.

21 Q How does an earnings per share metric

22 differ from a net income metric, if it does?

1 A It would be similar.

2 The earnings per share in its simplest
3 form would be equal to the net income divided by the
4 shares outstanding.

5 Q So do you agree that all else being equal
6 if a utility reduces its costs of service that that
7 increases its earnings per share?

8 A If everything else is held absolutely
9 constant and the expenses are reduced, the earnings
10 per share would go up.

11 Q Okay. Can a utility's experiencing
12 increased earnings per share benefit customers then?

13 A Again, my answer is the same as it was to
14 the question about the net income.

15 If it's related solely to reductions
16 or in expenses and those expenses are reflected in
17 the rates paid by customers, then in those particular
18 circumstances arguably the increase in earnings per
19 share -- because of what caused the increase in
20 earnings per share could benefit customers.

21 Q With regard to those criteria that you
22 believe the associated costs should be disallowed, if

1 sort of THE trigger for payout on criteria was set so
2 low that it was just essentially guaranteed, it would
3 be hit every year, there would never be any question
4 about it, would that change your view whether the
5 costs were recoverable?

6 A Again, I think that would get back to what
7 I said earlier about what the whole purpose of the
8 incentive compensation was to begin with, so it's a
9 little difficult to respond to the hypothetical
10 because it would, in effect, render the whole
11 Incentive Compensation Program a nullity.

12 So I guess it's possible it could
13 affect my recommendation.

14 Q You may have difficulty with this one, too,
15 then, but let's see.

16 If the metric was something fanciful
17 even random, it have nothing to do with revenues or
18 expense; it has to do with something that happens 15
19 percent of the time, what would be your understanding
20 whether that would be recoverable in costs?

21 A I don't know. When you say "something that
22 happens 15 percent of the time," I guess it would

1 depend on what that something was.

2 Q I understand this it fanciful, but suppose
3 for some reason say the head of HR was a fan of the
4 national legal, so if the National League wins the
5 All Star game, everybody gets \$10,000, and if the
6 American League wins the All Star game, they get
7 zero. What would be your understanding whether
8 that's recoverable?

9 A I can't imagine any circumstances where
10 something like that would be recoverable for the
11 ratepayers.

12 Q Okay.

13 A If it was the Red Sox winning, though, then
14 I may have to think a little bit more about it.

15 Q And different with the Yankees?

16 A No, then they should have to compensate
17 ratepayers for having such a contrary to public
18 policy program in place to begin with.

19 Q It's nice when we can reach common ground.

20 I would like to switch to one of the
21 other topics now that you've discussed your
22 testimony, which is the inclusion of the utility's

1 pension assets in rate base.

2 A Okay.

3 Q I have sort of a terminology question to
4 begin with. Sometimes I see people referring to them
5 as "pension assets," sometimes "retirement benefits
6 net," sometimes "prepaid pension expense," are those
7 synonyms or would you make any distinction among
8 those terms?

9 A I think all those terms are pretty much the
10 same thing, the prepaid pension asset.

11 Q All right. Do you agree that by definition
12 customer's payments of their utility bills cannot be
13 direct contributions to a utilities' pension trust?

14 A Yes.

15 MR. RATNASWAMY: In that case, I have no
16 further questions. Thank you.

17 JUDGE HILLIARD: There no further cross of this
18 witness?

19 MS. LUSSEN: No.

20 JUDGE HILLIARD: Any redirect?

21

22

1 REDIRECT EXAMINATION

2 BY

3 MS. LUSSON:

4 Q Mr. Effron, what is the basis of your
5 Omnibus incentive compensation disallowance?

6 A That the goals associated with that program
7 were entirely directed toward shareholders.

8 Q And Mr. Ratnaswamy asked you a series of
9 questions related to hypotheticals dealing with
10 programs that would increase net income and also
11 increase earnings per share.

12 Did you see anything in your review of
13 the incentive compensation amounts that you
14 disallowed that increases in earnings per share or
15 increases in the return on equity would necessarily
16 be passed on to ratepayers and reflected in rates?

17 A I don't recall having seen anything like
18 that.

19 MS. LUSSON: No further questions.

20 JUDGE HILLIARD: Recross?

21 MR. RATNASWAMY: No, thank you.

22 JUDGE HILLIARD: Thank you, Mr. Effron.

1 (Witness excused.)

2 MR. FEELEY: At this time, Staff would call its
3 next witness Theresa Ebrey.

4 (Witness sworn.)

5 THERESA EBREY,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY

10 MR. FEELEY:

11 Q Could you please state your name for the
12 record.

13 A Theresa Ebrey.

14 Q And by whom are you employed?

15 A I'm an accountant in the Accounting
16 Department of the Financial Analysis Division for the
17 Illinois Commerce Commission.

18 Q Ms. Ebrey, do you have in front of you
19 what's been marked for identification as ICC Staff
20 Exhibit 3.0, the corrected direct testimony of
21 Theresa Ebrey, 44 pages of narrative text, and
22 attached schedules 3.1N and P to 3.9N and P and

1 Attachments A, P, B, N, C, N and P, both public and
2 confidential. DN, DP, EN, EP, FN, FP and G and H?

3 A I believe Attachment C, we just attached
4 the public version. We did not attach the
5 confidential version.

6 Q Well, the confidential version would have
7 been filed on, I think, E-Docket?

8 A No, I didn't include the confidential
9 version.

10 Q So Attachment C is just N and P, public?

11 A That's correct.

12 JUDGE HILLIARD: What was the Exhibit Number
13 again?

14 MR. FEELEY: ICC Staff Exhibit 3.0 corrected.
15 That was filed on E-Docket on July 18th.

16 BY MR. FEELEY:

17 Q Was ICC 3.0 and all those attachments and
18 schedules prepared by you under your direct,
19 supervision and control?

20 A Yes.

21 Q Do you have any additions, deletions or
22 modifications to make to ICC Staff Exhibit 3.0, in

1 the attachments or schedules?

2 A No.

3 Q If I were to ask you today the same series
4 of questions set forth in that exhibit, would your
5 answers be the same?

6 A Yes.

7 Q Ms. Ebrey, do you have in front of you
8 what's been marked for identification as ICC Staff
9 Exhibit 12.0 corrected, the corrected rebuttal
10 testimony of Theresa Ebrey, consisting of 29 pages of
11 narrative text, Attachment AN, AP, BN, BP, CN, CP,
12 DN, DP, EN, EP and Schedules 12.1N and P to 12.9 N
13 and P?

14 A Yes.

15 Q Was ICC Staff Exhibit 12.0 corrected and
16 all those schedules prepared by you or under your
17 direct supervision and control?

18 A Yes.

19 Q Do you have any additions, deletions or
20 modifications to make to ICC Staff Exhibit 12.0
21 corrected or on the attached schedules?

22 A Yes, I do.

1 Q Could you please explain what that is?

2 A It came to my attention last Friday
3 afternoon that Staff Witness Sackett's adjustment
4 regarding solicitation services had changed from
5 Staff direct testimony to Staff rebuttal testimony.

6 In the direct testimony, Mr. Sackett
7 proposed an adjustment to increase solicitation
8 revenues; however, in Mr. Sackett's rebuttal
9 testimony, the adjustment was changed to be a
10 decrease to expenses.

11 I did not reflect that change from an
12 revenue increase adjustment to an expense decrease
13 adjustment in my rebuttal testimony on Pages 23 and
14 24 or in the Schedules 12.6N and 12.6P.

15 It's my understanding that the
16 adjustment will be correctly presented as an expensed
17 decrease in Staff revenue requirement that will be
18 filed with Staff's initial brief.

19 Q Ms. Ebrey, do you intend for Staff Exhibit
20 12.0 corrected with attachments and attached
21 schedules and the correction you just noted to be
22 your sworn testimony in this proceeding?

1 A Yes.

2 MR. FEELEY: Your Honor, I note 12.0 corrected
3 and the attachments to those schedules were filed on
4 E-Docket on August 22nd.

5 JUDGE HILLIARD: Are there other exhibits you
6 need to identify for this witness?

7 MR. FEELEY: No, Ms. Ebrey just had our direct
8 and rebuttal testimony. So Ms. Ebrey is available
9 for cross-examination. And I move to admit -- do you
10 want me to go over the particular list?

11 JUDGE HILLIARD: How about 3.0 corrected with
12 attachments and 12.0 corrected with attachments and
13 schedules. Does that cover it?

14 MR. FEELEY: And schedules.

15 JUDGE HILLIARD: 3.0 corrected with attachments
16 and schedules and 12.0 corrected with attachments and
17 schedules will be admitted in the record.

18 (Whereupon, Staff Exhibit Nos.
19 3.0 and 12.0 were admitted into
20 evidence.)

21 MR. FEELEY: So Ms. Ebrey is available for
22 cross-examination.

1 JUDGE HILLIARD: Okay.

2 CROSS EXAMINATION

3 BY

4 MR. EIDUKAS:

5 Q Good morning, Ms. Ebrey. I'm one of the
6 attorneys representing North Shore Gas and Peoples
7 Gas Light and Coke Company.

8 I just have some questions for you on
9 the incentive compensation expense adjustments that
10 you have proposed.

11 Is it correct in your direct testimony
12 and rebuttal testimonies you proposed to adjust or
13 disallow certain incentive compensation costs from
14 the utility's proposed revenue requirements?

15 A Yes.

16 Q Ms. Ebrey, do you consider yourself an
17 expert on the management of human resources?

18 A No.

19 Q Have you ever worked in a Human Resources
20 Department?

21 A No.

22 Q Or ever held a position where you were

1 responsible for designing compensation structures
2 that would attract and retain qualified employees?

3 A In a former position I had, I was involved
4 in development of employee wages, yes.

5 Q Was that at the Illinois Commerce
6 Commission?

7 A No.

8 Q Is it correct that your testimony on this
9 issue of incentive compensation expenses offers no
10 opinion as to whether the approach of the utilities
11 to their total and incentive compensation practices
12 in running their businesses are prudent from a
13 business perspective?

14 A No.

15 Q Ms. Ebrey, is there any section in the
16 Illinois Public Utilities Act that restricts the
17 recovery of incentive compensation costs?

18 A I don't believe incentive compensation are
19 specifically identified in the Public Utilities Act.

20 Q Would it be correct to state that your
21 proposed adjustments to the incentive compensation
22 costs are based on your understanding of the

1 standards that the Illinois Commerce Commission has
2 established for the recovery of such costs?

3 A My adjustments are based on prior
4 Commission orders. I don't know that I would
5 characterize that as standards established, but past
6 practice of the Commission and what they have
7 approved for recovery.

8 Q Is there any other basis upon which you're
9 making those adjustments other than the Commission's
10 past practices?

11 A No.

12 Q So, Ms. Ebrey, you may have heard the
13 testimony of the prior witness, and Mr. Ratnaswamy
14 had run through a few hypotheticals to explore
15 incentive compensation practices with Mr. Efron.

16 So it may be a little bit of déjà vu,
17 so I would like to explore your opinions on those
18 hypotheticals.

19 You may have heard them, but I will
20 set out the assumptions again to make sure we are
21 talking about the same thing.

22 So the hypothetical to start with is

1 based on three assumptions: The first is to assume
2 there is a large gas utility that hires five
3 operation department employees, and each of their
4 salaries is \$50,000 per year; now, assume that that
5 salary is consistent with the relevant labor market
6 for individuals with similar qualifications; and then
7 third, assume that those employees are each doing
8 something that is useful and needful work to help the
9 utilities serve its customers, whether it's repairing
10 leaks or something along those lines, but assume it's
11 needful and useful for the utility to serve its
12 customers.

13 So based on that set of facts in the
14 hypothetical that we established so far, is there any
15 fact which suggests to you that if a utility were to
16 file a rate case that some costs or some portion of
17 those base salaries would be disallowed, should be
18 disallowed?

19 A Not based on the assumptions that you gave,
20 no.

21 Q Okay. So now I would like to change again,
22 that first assumption about there being a base salary

1 of \$50,000 per year, so let's change that assumption
2 to a factual situation where instead of paying
3 \$50,000 per year in base salary, the Company utility
4 pays the employees \$45,000 per year in base salary
5 and then has an Incentive Compensation Program
6 whereby its expected that each of those employees
7 would earn an incentive compensation payout of on
8 average \$5,000 per year.

9 So based on that change of assumptions
10 and the other two assumptions remaining the same, do
11 you have an opinion on whether or not under that
12 compensation structure, would there be any basis to
13 propose a disallowance?

14 A That would depend on what the Incentive
15 Compensation Program metrics were, what the basis for
16 the incentive payment would be.

17 Q And when you talk about that basis, just to
18 make sure we are talking about the same thing, would
19 be the term "metric," do you understand that?

20 A Yes.

21 Q If the metric that was to determine the
22 payout of that \$5,000 was based on customer

1 satisfaction, in your opinion would there be a basis
2 to propose a disallowance?

3 A Are you also assuming that the target of
4 that metric is met?

5 Q Yes.

6 A Okay. If the target that is set forth in
7 the plan would be met and it was a customer
8 satisfaction metric, no, I wouldn't probably
9 recommend disallowance of that.

10 Q What if that metric was to measure a
11 reliability of service and the metric was met and
12 resulted in a payout of \$5,000, under those set of
13 facts, would you propose a -- do you believe you
14 would propose a disallowance?

15 A No.

16 Q Same set of facts other than the metric
17 that's being measured is customer safety, under those
18 set of circumstances, would you propose a
19 disallowance?

20 A Customer safety?

21 Q Yes.

22 A No.

1 Q And what if it changed to worker safety?

2 A No.

3 Q Now, what if the metric that was being
4 measured and met by the employees was a metric that
5 measured reductions in operating expenses?

6 A I'm sorry. I was distracted.

7 What was that?

8 Q What if we changed the metric that was
9 being measured and met by the employees, if that
10 metric measured reductions in operating expenses,
11 would you propose a disallowance on that basis?

12 A I think that would depend on what was meant
13 by a reduction in operating expenses.

14 Q Okay. If there was a target level of
15 expenses set, for operating expenses and the
16 employees performed at a level that where operating
17 expenses -- whereby operating expenses were lower
18 than that target, would that satisfy your criteria
19 for reducing expenses?

20 A If it was where expenses were reduced for
21 one year actual expenses to another year actual
22 expenses and that reduction was reflected in revenue

1 requirements that base rates were set from, then I
2 would probably not disallow that.

3 Q Okay. Now, instead change the assumption
4 to instead of a reduction in expenses, what if the
5 metric was measuring a controlling of expenses
6 whereby there is an incentive compensation payout if
7 employees perform so that expenses did not increase,
8 would that, in your opinion, be a suitable metric to
9 allow recovery of incentive compensation costs?

10 A I think that would depend on the
11 circumstances.

12 Why did the expenses not increase?
13 Were they already too high to start with? I don't
14 know that I could say that I would not recommend
15 reductions in the incentive compensation just based
16 on the information that you've provided.

17 Q Okay. What if I added the fact that the
18 level of expenses that's the target for the metric is
19 in line with the utility's past experiences, such as
20 the last time they were in for a rate case, would
21 that situation, if there was no significant change
22 that was not explained by inflation or normal cost

1 increases in the economy, if that was the situation
2 whereby the level -- there was the level being set to
3 meet with the metric, and the metric was to measure
4 not exceeding or trying to control costs within that
5 level, in that set of circumstances, do you believe
6 that the metric provides -- presents a situation
7 where incentive compensation costs should be
8 recoverable?

9 A In that situation, I'm not sure why Company
10 would come in for a rate increase. Their costs are
11 not increasing, so I'm not sure why they would be
12 requesting a rate increase.

13 Q Well, could there be other situations where
14 revenues decreased -- but the assumption is they
15 needed a rate increase or that the expenses may be
16 increased due to inflation but are in line with
17 previous expenses in previous rate cases and this is
18 to control your concern that the level set is not
19 artificially inflated, under those circumstances,
20 would that address your concern, and in your opinion,
21 make those incentive compensation payouts
22 recoverable?

1 A Not necessarily. I think the utility
2 should keep costs controlled as part of their
3 obligation to their customers, to control the costs.

4 Q So if that obligation to customers was met,
5 wouldn't that be a benefit to the customers?

6 A Not necessarily, that's what they should be
7 receiving from their utility without an incentive
8 payment to the employees.

9 Q So then what if the target level is met
10 that is below what you're saying Company's employees
11 should be producing for the customers, if there is a
12 target level that's below that same cost threshold,
13 would those costs be recoverable with a metric like
14 that?

15 A So you're going back to the assumption that
16 they're discussing costs from what they had
17 previously been, correct?

18 Q Yes.

19 A I'm sorry?

20 Q I will withdraw the question.

21 So it's your opinion that incentive
22 compensation metric that incentivizes employees to

1 control costs at the level that a utility is
2 currently performing is not a proper metric for
3 employee incentive compensation?

4 A Based on past Commission orders, there
5 needs to be shown ratepayer benefit, and I don't know
6 that just controlling costs in itself results in a
7 ratepayer benefit.

8 Q Assume a utility where everything else
9 being equal their operating expenses were to
10 increase; in such a situation, isn't it more likely
11 that that will utility will have to come in and seek
12 a rate increase?

13 A That would be a decision that the utility
14 would make.

15 Q And in such a situation -- well, the
16 question was: Is it your opinion whether or not a
17 utility in that situation would be more likely to
18 come in for a rate increase?

19 Are you stating that you do not have
20 an opinion on the likelihood increasing under such
21 circumstances?

22 MR. FEELEY: Objection; I think it's calling

1 for this witness to speculate on what a utility would
2 or wouldn't do.

3 JUDGE HILLIARD: Speculate about what?

4 MR. FEELEY: It's calling on this witness to
5 speculate on what a utility would or wouldn't do.

6 JUDGE HILLIARD: You can answer the question,
7 if you understand it.

8 THE WITNESS: I really don't know what the
9 utility would do. There is any number of reasons
10 they would come in for a rate case, and I don't want
11 to speculate on what that decision might be based on.
12 BY MR. EIDUKAS.

13 Q If a utility's operating costs stay the
14 same and don't increase over time, isn't it true that
15 it's less likely -- in your opinion, is it less
16 likely that the utility will come in for a rate
17 increase?

18 A Once again, there is a number of reasons
19 why they would come in. Just because the expenses
20 don't increase doesn't necessarily mean they won't
21 come in.

22 Q And that's your opinion even if everything

1 else is being kept equal, there is no other change
2 other than changes in operating expenses -- strike
3 that.

4 I'll ask the question another way.

5 So is it your opinion, Ms. Ebrey, that
6 changes in operating costs do not influence a
7 utility's decision to seek rate increases?

8 A No, I think changes in operating costs
9 would have some influence. If that would result in
10 the filing of a rate case or not, I don't know.

11 Q Turning specifically to the utility's
12 executive -- strike that.

13 I want to clarify one thing that was
14 brought to my attention when I was asking you about
15 whether or not you had an opinion -- or IS that your
16 testimony whether or not you were offering any
17 opinion on whether or not the utility's compensation
18 practices were prudent. It was brought to my
19 attention there may have been perhaps a
20 double-negative, so I want to clarify that.

21 Am I correct that your testimony
22 offers no opinion on the prudence of the utility's

1 compensation practices from a business perspective?

2 A That's correct, I don't discuss the
3 prudence of their salaries and wages.

4 Q Thank you. Now I want to the turn
5 specifically to the utility's Executive Compensation
6 Plan and the costs that you propose to adjust or
7 disallow.

8 One metric upon which you in your
9 testimony propose an adjustment is the earnings per
10 share metric, correct?

11 A Could you point to my testimony that you're
12 referring to.

13 Q In your direct testimony, it would be
14 summarized on Page 9, Lines 172 through 174.

15 A Okay.

16 Q And further on Lines 186 through 191. So
17 looking at that testimony, is it correct you're
18 proposing a disallowance of costs relating to the
19 earnings per share metric of the utility's Executive
20 Incentive Compensation Plan?

21 A Yes.

22 Q Is it your understanding that earnings per

1 share generally is based on, to a large degree, on
2 net income?

3 A Yes, generally, I would agree with that.

4 Q And do you have a general definition in
5 mind as to what "net income" is?

6 A Generally, it's revenues less expenses.

7 Q So, Ms. Ebrey, all else being equal, if a
8 utility reduces its operating costs or expenses,
9 wouldn't its earnings per share increase?

10 A Yes.

11 Q If the metrics for Incentive Compensation
12 Program benefit shareholders, does that in and of
13 itself necessarily mean that that metric could not
14 also benefit customers?

15 A No.

16 Q So a metric lead to both benefit to
17 shareholders and customers, correct?

18 A It could.

19 Q In such a situation, if there was a metric
20 that led to benefits to both shareholders and
21 customers, would you agree that the utility should
22 not have to bear 100 percent of the cost for such a

1 program?

2 A I would agree with that.

3 Q So turning to, if there was a metric that
4 measured net income -- and this is along the lines of
5 the questions that were asked of Mr. Effron -- if a
6 program, incentive program was based on a metric and
7 there was facts that showed the program
8 incentivized employees such that in response to that
9 metric they reduced costs, and that is what led to
10 the net income increasing, in such a situation, do
11 you have an opinion on whether or not the costs of
12 such a program might be recoverable?

13 A I think that question just asks the
14 previous questions a different way when we were
15 discussing decreasing costs and if they were
16 recoverable or not, so.

17 Q So I know we had some problems in defining
18 what a reduction in costs was.

19 Assume that to your understanding, you
20 were satisfied that the metric led to a reduction in
21 costs. If that were the case, even though the metric
22 measured net income, if the measurement of net

1 income -- the increase in the income that met that
2 level of the metric was caused by solely a decrease
3 in costs, would that, in your mind, with a metric
4 suitable for recovery?

5 A Not necessarily.

6 Q On what basis would such costs not be
7 recoverable?

8 A It depends on what the reduction in costs
9 was measured from and if that would result in lower
10 rates.

11 Q Any other reasons?

12 A I'm just getting this question confused
13 with the questions that we just went through. I'm
14 trying to get in my mind straight how this is
15 different than what we already discussed.

16 Q Let me ask then, would it be fair to say
17 that whether or not the metric was based off of net
18 income or earnings per share or operating costs, is
19 it your opinion -- as I understand your position on
20 that, the determination of whether or not costs is
21 recoverable doesn't matter what the metric is named,
22 rather whether or not it can be shown that there was

1 an actual reduction in costs from a set level that
2 was agreed upon as being valid whereby there was a
3 benefit to customers because of that reduction in
4 costs?

5 A What you said last was the main focus,
6 there needs to be a showing that there was a benefit
7 to the ratepayers.

8 Q In the general, is a reduction in rates a
9 benefit to ratepayers?

10 A A reduction in rates?

11 Q Yes.

12 A I would say so, yes.

13 Q What about if rates are kept stable, could
14 that be a benefit to customers?

15 A It depends on all the circumstances behind
16 the rates remaining stable.

17 Q So are you saying it is possible that rates
18 remain stable could provide a benefit to ratepayers?

19 A That is possible.

20 Q And with respect to one of your adjustments
21 proposed in the executive incentive compensation
22 isn't it true that there is -- one of your

1 adjustments is to disallow a portion of those
2 expenses based on the fact that there are performance
3 metrics that are based on the combined performances
4 of all the Integrys affiliates?

5 A Yes.

6 Q Some of which are not in Illinois?

7 A That's correct.

8 Q And for those metrics, you don't propose a
9 complete disallowance, correct?

10 I will withdraw that.

11 With respect to those costs, you're
12 not proposing that they all be disallowed, but rather
13 the portion you determine to be allocated to the non-
14 Illinois affiliates should be disallowed, correct?

15 A Correct.

16 Q And you base the calculation of that
17 disallowance on a ratio for Integrys business
18 services incentive compensation expenses to the total
19 compensation expenses; is that correct?

20 A I believe that's correct.

21 Q Turning to the non-executive incentive
22 compensation plan and your proposed adjustments for

1 the cost of that plan, and looking at your direct
2 testimony, that starts on Page 11 at Line 217, and in
3 your rebuttal testimony, you change your position a
4 little bit on one of the disallowances, which start
5 on Page 8 of your rebuttal testimony, as well.

6 (Change of reporter.)

7 So with that in mind, as to the
8 sections you're testifying talking about, am I
9 correct in summarizing your adjustments to the
10 nonexecutive incentive compensation plan to a
11 proposed disallowance for expenses relating to that
12 plan's operating and maintenance expense metric.

13 A That's correct.

14 Q And that equals 50 percent of the expenses
15 related to the nonexecutive incentive compensation
16 plan?

17 A Yes.

18 Q Okay. And am I correct to summarize that
19 in your direct and rebuttal testimonies, you've
20 proposed that adjustment for three reasons?

21 And I can list them out and then you
22 can tell me if I'm incorrect or if I've missed

1 anything.

2 The first basis you propose a
3 disallowance is because you believe -- your opinion
4 that the O and M expense metric is an improper
5 financial goal. The second -- or -- is that correct,
6 that's one of your bases?

7 A I don't know if improper is the way I
8 described that. Historically financial goals are not
9 allowable for recovery based on prior Commission
10 orders. So I don't know that I would call it
11 improper, just nonrecoverable maybe.

12 Q And the second reason would be that the
13 target -- the threshold target levels that the
14 operation and maintenance expense -- expenses needed
15 to be met were based on a budget forecast?

16 A That's correct.

17 Q And then the third reason was that that
18 operations and maintenance expense metric is based on
19 combined performance of Integrys affiliates,
20 including non-Illinois affiliates?

21 A I believe that was my position in direct
22 and that's what I changed in rebuttal.

1 Q I believe there were -- in your direct
2 there were two portions of the nonexecutive plan upon
3 which you were -- you're basing a disallowance in
4 part at least on a -- non-Illinois affiliates being
5 included.

6 One of which was the operations of
7 maintenance expense metric, which --

8 MR. FEELEY: Can you provide some references?

9 MR. EIDUKAS: I'm about to. I will refer to
10 Lines 223 through 227.

11 Sorry. Strike that.

12 BY MR. EIDUKAS:

13 Q In your direct testimony, please -- I'm
14 referring to Lines 259 through 265 on Page 13 of your
15 corrected direct testimony. And then in your
16 rebuttal testimony as well, I understand there -- you
17 to be suggesting that a reason for disallowing the
18 expenses related to the O and M metric to -- as well
19 as the other two reasons to be found on Page 10,
20 Lines 172 through 180?

21 A I see that now, yes.

22 Q Okay. So then am I correct that a third

1 reason you propose to disallow the costs related to
2 the O and M -- the operations and maintenance expense
3 metric to be that it's based on the combined
4 performance of Integrys affiliates?

5 A Yes.

6 Q Now, Ms. Ebrey, if the Commission were to
7 disagree with your position on the first two
8 reasons -- in other words, they disagree that the
9 operations and maintenance expense metric was a
10 financial goal that was nonrecoverable and, two, they
11 disagreed with your position that those costs should
12 not be recoverable because the metric is based on a
13 budget forecast, but they did agree with you that
14 some adjustment was required due to the fact that the
15 metric was based on the combined performance of the
16 Integrys affiliates, including non-Illinois
17 affiliates -- under that set of circumstances, would
18 it be your opinion that that disallowance should be
19 based on the portion of those costs allocated to the
20 non-Illinois affiliates similar to what you did for
21 the metrics in the executive compensation plan --
22 incentive compensation plan?

1 A Yes, under that scenario, that would be
2 my -- my recommendation for the adjustment.

3 Q And would that be -- would it be your
4 opinion that that adjustment should be paid on the
5 same basis as was -- as you did for the executive
6 incentive compensation plan?

7 A Yes.

8 Q Turning to the operations of maintenance
9 and expense metric being a financial goal, isn't it
10 true that the operations and maintenance expense
11 metric is not at all based on revenues?

12 A That's correct.

13 Q So it's purely a cost item?

14 A Correct.

15 Q And isn't it true that there will be
16 payouts of incentive compensation under that metric
17 only if those levels of such costs were kept at or
18 below a certain level?

19 A Yes.

20 Q Isn't it true that in prior cases, the
21 Illinois Commerce Commission has approved recovery of
22 costs for utility incentive compensation plans that

1 were based on reducing or controlling operation and
2 maintenance expense costs?

3 A I believe in some cases the Commission has
4 determined that there was some -- there was rate
5 payer benefit from the specific metrics in those
6 cases.

7 Q And that those metrics were -- just to be
8 clear that those metrics we're referring to were
9 relat- -- were based on operations and maintenance
10 expenses?

11 A I believe so.

12 Q Okay. Turning to your budget forecast
13 basis for proposing a disallowance, are you aware of
14 any rate case proceedings brought by a utility under
15 Section 9, dash, 201 of the Public Utilities Act in
16 which the Illinois Commerce Commission expressly
17 denied recovery of incentive compensation expenses
18 because the metric was based on performance against a
19 budget?

20 A As I sit here right now, no.

21 Q And the operations maintenance expense
22 budget at issue in this case with which you take

1 issue, isn't it true that that budget forecast is the
2 forecasted level of operations and maintenance
3 expenses that was part of the 2012 future test year
4 submitted in this case?

5 A The dollar amounts are based on the budget
6 for the test year 2012 in this case; but my concern
7 is not just limited to the test year in this case, my
8 concern is the incentive plan going forward, that
9 the -- the budgeted numbers may be overestimated in
10 order that that metric could be met.

11 The Commission has had concern with
12 that in the past. And in my direct testimony on
13 Pages 13 and 14, I discussed that concern with using
14 a budget as a target in the -- ComEd Docket 10-0527.

15 Q And, Ms. Ebrey, is there any facts in this
16 case of which you're aware that indicates the
17 operations and maintenance expense level forecasted
18 for the 2012 future test year was inflated?

19 A I think there's a number of adjustments
20 that were proposed for O and M expense in this case.

21 Q If the budget -- if the level set -- if
22 those were adjusted -- well, strike that.

1 If those proposed adjustments were not
2 accepted by the Commission such that the budget
3 proposed in for the future test year was accepted and
4 rates were based on that going forward, would in your
5 mind that be a sufficient basis upon which that level
6 of expense to be a target for incentive compensation
7 metric?

8 A If that was the Commission's decision --
9 you know, all I'm doing is making a recommendation to
10 the Commission. And if that's what their decision
11 is, that's what rates would be set based on.

12 Q And when you say, Proposed adjustments to
13 the forecasted level of operation and maintenance
14 expenses, that indicates -- is it true then that that
15 budget level was open to scrutiny by all parties in
16 this case as part of the rate case proceeding?

17 A Yes.

18 Q Isn't it true that the Commerce
19 Commission -- Illinois Commerce Commission has
20 granted recovery of incentive compensation expenses
21 related to a metric that measured performance of
22 operation and maintenance expenses against a

1 utility's budget?

2 A I don't know.

3 Q If there were such decisions by the
4 Commerce -- Illinois Commerce Commission, would that
5 change your opinion on whether or not such costs
6 should be recoverable?

7 A Not necessarily without knowing what
8 evidence was presented in those specific cases that
9 made a showing of rate payer benefit.

10 Q But you're not aware, as you sit here
11 today, that -- of any Illinois Commerce Commission
12 order in which the utility's incentive compensation
13 costs were denied because a metric measured
14 performance against a budget, correct?

15 A As I sit here today, no.

16 MR. EIDUKAS: I think I have no further
17 questions.

18 CROSS-EXAMINATION

19 BY

20 MS. LUSSON:

21 Q Good morning, Ms. Ebrey. My name's Karen
22 Lusson. I'm from the Attorney General's Office.

1 I want to have you, if you would, turn
2 your attention to your Exhibit 12.0, your rebuttal
3 testimony, Page 28. There you address the AG/CUB
4 adjustment to the employee compliment around Line 510
5 there.

6 A Yes.

7 Q Now, there you take issue with the proposed
8 head count adjustment prepared by Mr. Efron because
9 based on the actual head count for the first six
10 months of 2010, the test year head count does not
11 reflect any increases.

12 Is that your testimony?

13 A Yes.

14 Q If I could, I'd like to have the individual
15 down in Springfield show you what will be marked as
16 AG Cross Exhibit 10, and that is the response to Data
17 Request -- Staff Data Request TEE 2.08 and
18 attachment.

19 (Whereupon, AG Cross Exhibit
20 No. 10 was marked for
21 identification, as of this
22 date.)

1 THE WITNESS: Okay. There's one page of the
2 attachment here, it's Page 15.

3 BY MS. LUSSON:

4 Q That's correct.

5 Now, looking -- first off, do you
6 recognize this as the Company's response to your Data
7 Request TEE 2.08 with Page -- the attachment
8 identified as Page 15 of 24?

9 A Yes.

10 Q Now, if I could call your attention to
11 Row 34 -- Row 34 of the -- of that attachment where
12 it lists the actual versus authorized number of
13 employees for Peoples Gas for the first six months of
14 2010.

15 Do you see that there?

16 A Yes.

17 Q Now, would you agree that that -- those
18 figures show the actual head count for the first six
19 months varying between 1,076 on the low end and
20 1,097 on the high end?

21 A Yes.

22 Q And would you agree that the Company's

1 forecasted head count for the 2012 test year is
2 1,120?

3 A Yes, it does go to 1,122 in the -- on the
4 attachment.

5 Q Now, you indicate that based on the actual
6 head count for the first six months of 2010, the test
7 year does not reflect any increases.

8 Why is that your position?

9 Maybe -- perhaps, I should say, would
10 you agree that, in fact, the forecasted amounts do
11 exceed the actuals listed there in this attachment?

12 A Yes, I agree, the forecasted amounts are
13 more than the actuals.

14 MS. LUSSON: Thank you, Ms. Ebrey.

15 I have no further questions and would
16 move for the admission of AG Cross Exhibit 10.

17 JUDGE HILLIARD: Objections?

18 (No response.)

19 Hearing no objection, AG Cross
20 Exhibit 10 will be admitted into the record.

21

22

1 (Whereupon, AG Cross Exhibit
2 No. 10 was admitted into
3 evidence.)
4 JUDGE HILLIARD: Is there any redirect of the
5 witness?
6 MR. FEELEY: Could we take a short break?
7 JUDGE HILLIARD: Sure.
8 (Whereupon, a recess was taken.)
9 JUDGE HILLIARD: So do you have redirect?
10 MR. FEELEY: Yeah, we have brief redirect.
11 JUDGE HILLIARD: Okay. Proceed.
12 REDIRECT EXAMINATION
13 BY
14 MR. FEELEY:
15 Q Ms. Ebrey, do you recall when Ms. Lusson
16 asked you about -- I think it was Page 28 of your
17 corrected rebuttal testimony regarding a head count
18 adjustment proposed by Mr. Efron?
19 A Yes.
20 Q Okay. Is -- does Mr. Efron's head count
21 adjustment relate to any adjustment that you proposed
22 in your testimony?

1 A Yes. My adjustment to nonunion wages on
2 Schedules 12.3N and 12.3P, the starting point -- the
3 basis for my adjustment was actual 2010 wage and
4 salary dollars. So to some extent, I've already
5 reflected that head count decrease. My adjustment is
6 not based on the Company's projected head count, but
7 is based on actual 2010 payroll.

8 Q Okay. And, Ms. Ebrey, do you recall during
9 cross-examination by Mr. Eidukas regarding incentive
10 comp, he asked you if prior Commission orders were
11 somehow a basis for the adjustments that you propose
12 in that area of incentive comp.

13 Do you recall those questions?

14 A Yes.

15 Q Is there anything else that you base your
16 adjustments on besides prior Commission orders?

17 A Yes. I also base my adjustment on my
18 experience in addressing the use of incentive
19 compensation in prior Commission rate cases and the
20 rate-making treatment that was applied to that issue.

21 Q Okay. And do you know offhand how many
22 rate cases you've testified on this issue before or

1 just in the last -- in the last three or four years?

2 A I would say probably 10 or 12 in my time at

3 the Commission.

4 MR. FEELEY: All right. That's all I have.

5 JUDGE HILLIARD: Recross?

6 RECROSS-EXAMINATION

7 BY

8 MR. EIDUKAS:

9 Q Just one question, Ms. Ebrey, with respect

10 to that last line of questioning.

11 During the -- your time at the

12 Commission in testifying in rate cases, in proposing

13 adjustments or disallowances, sometimes the

14 Commission has agreed with your proposals, correct?

15 A That's correct.

16 Q And sometimes they disagree with those

17 proposals, correct?

18 A Yes.

19 MR. EIDUKAS: Thank you. No further questions.

20

21

22

1 RECROSS-EXAMINATION

2 BY

3 MS. LUSSON:

4 Q Ms. Ebrey, you reference your adjustment
5 on -- that is in your testimony related to
6 Mr. Efron's in Schedule 12.3; is that right?

7 A That's correct.

8 Q Now, I noticed that that adjustment is
9 related to nonunion wages; is that correct?

10 A That's correct.

11 Q So that would exclude all union -- any sort
12 of adjustment to union employees; is that right?

13 A That's right.

14 Q And have you made any -- sitting here
15 today, do you know what percentage the nonunion
16 employee base comprises of the total employee base?

17 A No, I don't.

18 MS. LUSSON: Thank you, Ms. Ebrey.

19 JUDGE HILLIARD: Rerredirect?

20 MR. FEELEY: We have no rerredirect.

21 JUDGE HILLIARD: Thank you, Ms. Ebrey. You're
22 excused.

1 It's about 5 to 12:00 on my watch. Do
2 you want to take a lunch break now?

3 MR. EIDUKAS: Your Honor, on the Attorney
4 General's cross exhibit for Ms. Ebrey --

5 JUDGE HILLIARD: Yes.

6 MR. EIDUKAS: -- we would -- before that's
7 submitted, we would just like an opportunity -- it's
8 one page of a 24-page document and we would just like
9 the opportunity to review to the entire document
10 before stipulating to its admission.

11 JUDGE HILLIARD: We haven't done that already?
12 We didn't do so already?

13 Okay. That's fine. I don't remember.

14 JUDGE KIMBRELL: I thought we did.

15 JUDGE HILLIARD: I thought we did put it in.

16 MR. EIDUKAS: I guess if we have, we could
17 always seek to --

18 JUDGE HILLIARD: If you didn't, let me know,
19 otherwise we won't address it again.

20 Okay. Why don't we reconvene at 1:00
21 o'clock then.

22

1 (Whereupon, a lunch recess was
2 taken.)

3 JUDGE HILLIARD: Could both of you raise your
4 hand and be sworn.

5 (Witness sworn.)

6 JUDGE HILLIARD: Thank you. If you're ready,
7 proceed.

8 MS. LUCKEY: Staff now calls Dan Kahle to the
9 stand.

10 DANIEL G. KAHLE,
11 called as a witness herein, having been first duly
12 sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY

15 MS. LUCKEY:

16 Q Can you please state your name for the
17 record.

18 A Daniel G. Kahle.

19 Q And by whom are you employed?

20 A I'm employed as an accountant in the
21 Accounting Department of the Financial Analysis
22 Division of the Illinois Commerce Commission.

1 Q Mr. Kahle, do you have in front of you what
2 has previously been filed on e-Docket as the direct
3 testimony of Daniel Kahle, ICC Staff Exhibit 1.0,
4 dated June 15th, 2011, and which consists of a cover
5 page, a table of contents, 26 pages of narrative text
6 and the attached Schedules 1.1 through 1.11 NNP, 1.12
7 and 1.13 P, and 1.4 NNP along with Attachments A
8 through G?

9 A Yes.

10 Q Was ICC Staff Exhibit 1.0 prepared by you
11 or under your direction, supervision and control?

12 A Yes.

13 Q Do you have any additions, deletions or
14 modifications to make to ICC Staff Exhibit 1.0, its
15 attachments or schedules?

16 A No.

17 Q If I were to ask you today the same series
18 of questions set forth in that document, would your
19 answers be the same?

20 A Yes.

21 Q Mr. Kahle, do you also have in front of you
22 what has been previously filed on e-Docket as the

1 rebuttal testimony of Daniel Kahle, which has been
2 marked for identification as ICC Staff Exhibit 10.0
3 and which consists of a cover page, a table of
4 contents, 25 pages of narrative text and has attached
5 Schedules 10.1 through 10.6 NNP corrected, 10.7 NNP,
6 10.8 NNP corrected, 10.9 NNP, 10.10 NNP corrected and
7 10.11 NNP?

8 A Yes.

9 MS. LUCKEY: Your Honors, the narrative text
10 and schedules for 10.7, 10.9 and 10.11 NNP of
11 Mr. Kahle's rebuttal testimony were filed on
12 August 15th, 2011, and the corrected schedules, 10.1
13 through 10.6, 10.8 and 10.10 NNP, were all filed on
14 August 22nd, 2011.

15 BY MS. LUCKEY:

16 Q Mr. Kahle, was your rebuttal testimony
17 prepared by you or under your direction, supervision
18 and control?

19 A Yes.

20 Q Do you have any additions, deletions or
21 modifications to make to that narrative testimony or
22 the attached schedules?

1 A Yes. I know of three changes which are not
2 reflected on my rebuttal schedules. It's my
3 understanding that Staff Witness Ostrander has filed
4 supplemental rebuttal testimony making changes to his
5 rate case expense adjustment.

6 JUDGE HILLIARD: Could you pull the mike a
7 little closer or something.

8 THE WITNESS: It's my understanding that Staff
9 Witness Ostrander has filed supplemental rebuttal
10 testimony making changes to his rate case expense
11 adjustments; Staff Witness Ebrey has made corrections
12 to a solicitation services adjustment presented in
13 her rebuttal schedules; and there's also a correction
14 to my utility plan and service adjustments as noted
15 in Company's Data Request NS/PGL No. 16 and 17. And
16 it's my understanding that the Company's Data
17 Requests NS/PGL No. 16 and 17 will be entered as
18 cross exhibits. And I intend to incorporate all
19 changes into the record into my schedules when Staff
20 files initial briefs.

21 BY MS. LUCKEY:

22 Q Do you have any additional deletions or

1 modifications to your rebuttal testimony?

2 A No, I do not.

3 Q If I were to ask you today the same series
4 of questions set forth in those documents, would your
5 answers be the same?

6 A Yes.

7 MS. LUCKEY: At this time, Staff would move to
8 admit into evidence the direct testimony of Daniel
9 Kahle, ICC Staff Exhibit 1.0 and its previously
10 described schedules and attachments and the rebuttal
11 testimony of Daniel Kahle, ICC Staff Exhibit 10.0
12 along with its previously described schedules.

13 JUDGE HILLIARD: Objections?

14 (No response.)

15 Hearing no objections, Staff
16 Exhibit 1.1 with attachments and Schedules 10.0 with
17 attachments and schedules subject to the corrections
18 to be filed is -- are admitted in the record.

19 If I said "1.1," I meant "1.0" plus
20 the following attachments and schedules and whatnot.

21

22

1 (Whereupon, Staff Exhibit
2 Nos. 1.0 and 10.0 was admitted
3 into evidence.)
4 MS. LUCKEY: Then we would tender the witness
5 for cross-examination at this time.
6 JUDGE HILLIARD: Okay. Please proceed.
7 CROSS-EXAMINATION
8 BY
9 MS. LUSSON:
10 Q Good afternoon, Mr. Kahle. My name is
11 Karen Lusson. I'm from the Attorney General's
12 Office.
13 I want to ask you some questions about
14 your test year plant and service budget adjustments.
15 If you could turn to Page 13 of your rebuttal
16 testimony, Line 276.
17 A Okay. I'm there.
18 Q Now, would you agree that in their rebuttal
19 testimonies, both companies increase the forecasted
20 plan additions from their direct testimony?
21 A Yes, that's correct.
22 Q I want to show you -- if the individual in

1 Springfield could -- what I'll mark as AG Cross
2 Exhibit 11, which is -- and, actually, AG Cross
3 Exhibits 12 -- we can deal with them at the same
4 time -- which are the Company's responses to your DGK
5 Data Request 3.05.

6 A Okay. I have them.

7 Q AG Cross Exhibit 11 is the Company's
8 responses I've indicated to your DGK 3.05 and the
9 Attachment 1 is -- includes the June update.

10 Do you see that?

11 A Yes.

12 Q Do you recognize this as the Company's
13 response to your data request with that attachment?

14 A Yes.

15 Q Well, your Honors, these numbers are
16 proprietary, if I could just have a moment and
17 determine whether or not I need to actually state
18 those amounts so we can avoid going in camera.

19 Well, I'm afraid I am going to have to
20 refer to these amounts. So I think we'll have to go
21 in camera.

22 MR. FEELEY: I think, it's not going over the

1 Internet. So I think it's just a phone thing, but
2 I...

3 JUDGE HILLIARD: You're right.

4 MR. FEELEY: So it's just -- whoever's -- as
5 long as the public --

6 JUDGE KIMBRELL: Did we not have Internet for
7 the entire day today?

8 MR. FEELEY: Correct.

9 MS. SCARSELLA: Your Honor, if I could just ask
10 if there's anyone in the room that hasn't signed a
11 confidentiality agreement, leaves for this portion.

12 MS. LUCKEY: And, Dan, that goes for anyone in
13 that room.

14 Is it only Staff in the room?

15 THE WITNESS: It's only Staff in the room here.

16 (Whereupon, the following
17 proceedings were had in
18 camera.)

19
20
21
22